

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2638

AN ACT

AMENDING SECTION 42-6010, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-6010, Arizona Revised Statutes, is amended to  
3 read:

4 42-6010. Business location municipal tax incentives:  
5 prohibition; penalty; exceptions; definitions

6 A. ~~A city or town that has~~ IF AT LEAST SIXTY-FIVE PER CENT OF THE LAND  
7 AREA WITHIN A CITY'S OR TOWN'S exterior boundaries IS located ~~entirely~~ within  
8 the exterior boundary of a metropolitan statistical area having a population  
9 of more than two million persons, THE CITY OR TOWN shall not offer or provide  
10 a tax incentive to a business entity as an inducement or in exchange for  
11 locating or relocating a retail business facility in the city or town.

12 B. A city or town that violates this section is subject to a penalty  
13 equal to the amount of the incentive realized by the taxpayer, extended over  
14 a period of sixty months. The department of revenue shall notify the state  
15 treasurer to withhold the amount of the penalty from monies otherwise payable  
16 to the city or town as provided by section 42-5029, subsection J.

17 C. The city or town shall report to the department of revenue the  
18 value of any tax incentive used as an inducement or in exchange for locating  
19 or relocating a retail business facility in the city or town. For the  
20 purposes of this subsection, the value includes all negotiated amounts, in  
21 any form and whether actual, realized or contingent, over the term of the  
22 incentive agreement.

23 D. This section does not apply with respect to:

24 1. Municipal services and benefits generally afforded by ordinance to  
25 all new businesses in the city or town, having no direct affect on municipal  
26 tax levies.

27 2. Tax incentives that are afforded to all existing retail business  
28 facilities in the city or town.

29 3. Tax incentives for locating retail business facilities in an area  
30 designated as a redevelopment project pursuant to title 36, chapter 12,  
31 article 3 where the average household income is less than the average city  
32 household income as determined by the United States census bureau.

33 4. Incentives consisting of reimbursement for public infrastructure  
34 dedicated to and accepted and controlled upon completion of the project by  
35 the city or town, county, state or a private utility where no other political  
36 subdivision provides such utility for transportation, water, sewer,  
37 electrical, drainage, the fair market value of real property necessary for  
38 the public infrastructure and other necessary public infrastructure. This  
39 paragraph does not apply to parking lots, parking structures or parking  
40 facilities or other structures or amenities owned or controlled by a private  
41 entity.

42 5. Incentives that are offered for the purpose of preserving  
43 historical buildings and other structures.

44 6. Incentives that are offered for cleanup or other remediation  
45 activities at a brownfields site under title 49, chapter 2, article 1.1 or

1 the comprehensive environmental response, compensation, and liability act of  
2 1980 (P.L. 96-510, 94 Stat. 2767; 42 United States Code sections 9601 through  
3 9657), commonly known as "superfund".

4 E. To qualify as exempt from the penalty, an incentive under  
5 subsection D of this section that is offered in exchange for expenses  
6 incurred by the business entity must be in the form of a reimbursement of the  
7 expenses and may not exceed or otherwise be disproportional to the actual  
8 cost incurred.

9 F. this section does not apply to tax incentives that were referred to  
10 a vote of the qualified electors of the city or town before July 1, 2007 and  
11 approved by the qualified electors of the city or town.

12 G. For the purposes of this section:

13 1. "Metropolitan statistical area" means a geographical area  
14 consisting of cities, towns and other populated areas defined for federal  
15 statistical and census purposes by the United States office of management and  
16 budget with technical assistance from the United States bureau of the census.

17 2. "Retail business facility" means a store, warehouse or other  
18 improvement to real estate where at least one-half of the business conducted  
19 on the premises consists of retail sales of tangible personal property to the  
20 ultimate consumer, measured by either the number of employees assigned to  
21 retail sales or the square footage of the facility used for retail  
22 sales. For the purposes of this paragraph, retail sales ~~does~~ DO not include:

23 (a) Sales of food and beverage for consumption on the premises of the  
24 facility.

25 (b) The distribution without charge of promotional products that  
26 display the company logo or trademark.

27 (c) Sales solely to company employees.

28 3. "Tax incentive" means any waiver, exemption, deduction, credit,  
29 rebate, discount, deferral or other abatement or reduction of the normal  
30 municipal tax liability of an individual taxpayer that otherwise applies to  
31 similar existing taxpayers and properties in the city or town, however  
32 denominated, computed or applied, and generally understood as an inducement  
33 for the taxpayer to locate a business facility or other operation in the city  
34 or town.